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No. 511

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1962

JAMES E. BUSH,

Petitioner

vs.

THE STATE OF TEXAS

Respondent.

ON WRIT OF CERTIORARI TO THE TEXAS COURT OF CRIMINAL APPEALS

SUPPLEMENTAL BRIEF FOR THE RESPONDENT

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STATEMENT

Illustrative of the concern which the State has of Petitioner and of his health, he was examined subsequent to the filing of the Brief for the Respondent by Dr. Adolf Hug, M.D. A copy of a Diagnostic Summary prepared by Dr. Hug is presented herein as Exhibit "A." Pursuant to this examination, Petitioner has been transferred to the State Mental Hospital at Rusk.

Texas, under the provisions of Article 932-1, Section 11, Texas Code of Criminal Procedure, as shown by Exhibit "B."

Respectfully submitted,

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Austin, Texas

BRUCE ALLEN
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Waxahachie, Texas

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EXHIBIT "A"

WYNNE TREATMENT CENTER

Diagnostic Summary

Name: BUSH, James E. T D C No. 165754
Location: Wynne Farm.

I, the undersigned, Doctor A. Hug, examined on this date, James E. Bush, TDC # 165754, an inmate of the Wynne farm and came to the following conclusions.

James is a 64 year old white widower. He was born and raised in a stable farm family situation, together with two brothers and four sisters. None of his immediate relatives at any time were in psychiatric care. He attended the third grade and later worked mainly as a blacksmith. He was married once and has two children. As far as we know from his record he was since 1937 seven times in prison for various offenses with also eight escapes listed. According to the same record he was in Terrell State Hospital in 1924 for mental observation.

On examination patient showed marked psychomotor retardation. He appears to be extremely withdrawn, autistic, isolated from reality and encapsulated in himself. He appears to have no drive or interests. In his verbal productions he is very vague. He is only poorly oriented, giving the date as somewhere in January of 1963 and showed marked difficulties in recalling his past history, or attending to any tests of his present memory capacity. He seems to be of low borderline intelligence. As reason for his various crimes he gives —"I always like to help somebody." There are definite lapses in his trend of thought so that he at times ap-

pears to be odd in his statements or difficult to understand, as he, on the other hand, sometimes has difficulties to understand the examiner.

All of the above evidence if not otherwise stated was given by James during a forty-five minute interview.

From James' history of a social failure and from the present evidence, mainly: marked autism and incoherent thinking, we come to the conclusion that James suffers from *simple schizophrenia.*

It is common knowledge that people who suffer from simple schizophrenia may go through life without calling the attention of a psychiatrist, since they may be distinguished as habitual criminals, alcoholics, vagabonds, etc. They all tend to run a protracted course which practically always starts early in life. They may deteriorate, but usually they go on without much deterioration. We have no doubts about the diagnosis of James, the only question we have is how much of the psychotic picture (memory difficulties) at the present time may be due to organic deterioration, though, for instance, arteriosclerosis or to his autism and lack of interest. On the assumption of the above diagnosis we would have to assume that James was only partly or not at all responsible for his acts, for very many years.

Adolf Hug, M.D.

Psychiatric resident, Houston State Psychiatric Institute, Houston, Texas.
Born 1926 in Zurich, Switzerland.
Trained at University of Zurich.
Holding Swiss State Board and Board for Psychiatry in Switzerland.
American training: one year internship, three years psychiatric residency.

AH:rdm

EXHIBIT "B"

THE STATE OF TEXAS,
COUNTY OF WALKER

Before Me, the Undersigned Authority, on this date personally appeared Richard C. Jones, who, after being duly sworn did depose and say:

My name is Richard C. Jones. I am Assistant Director of the Texas Department of Corrections, in charge of treatment and welfare.

Pursuant to a medical examination, by a prison physician, of James E. Bush, an inmate of the Texas Department of Corrections, under the authority of Article 932-1, Texas Code of Criminal Procedure, James E. Bush has this date been transferred to the State Mental Hospital at Rusk, Texas, for such treatment, if any, as may be deemed necessary by the authorities of said mental hospital.

/s/ Richard C. Jones

SUBSCRIBED And SWORN TO BEFORE ME, on this the 21st day of February, 1963.

/s/ Waymon Wooderson
Notary Public: Walker County, Texas